### UNITED STATES OF AMERICA

## BEFORE THE NATIONAL LABOR RELATIONS BOARD

Dixie Electric Membership Corporation,

CASE NUMBERS 15-CA-19954 AND 15-

versus :

UC-61496

International Brotherhood of Electrical

Workers, Local Union 767

:

### EXCEPTIONS TO ADMINISTRATIVE LAW JUDGE'S DECISION

The Employer, Dixie Electric Membership Corporation (hereafter "DEMCO"), excepts to the Administrative Law Judge's Decision, pursuant to Section 102.46 of the Rules and Regulations of the National Labor Relations Board, as follows:

1.

The Administrative Law Judge, Robert A. Ringler, issued and signed his Decision on July 21, 2011, regarding DEMCO's removal of two job classifications from the bargaining unit; DEMCO's alleged obligation to bargain over said removal; and the timeliness of DEMCO's UC Petition.

2.

The Administrative Law Judge's determination that DEMCO unlawfully modified the unit's scope is erroneous, and should be rejected by the Board.

3.

The Administrative Law Judge's determination that DEMCO had violated a duty to bargain over the removal is erroneous, unfounded and should be rejected by the Board.

The Administrative Law Judge's failure to determine that the local union had effectively waived its right to bargain over the removal is erroneous, unfounded and should be rejected by the Board.

5.

The Administrative Law Judge's determination that DEMCO's actions warranted a fait accompli finding is erroneous, unfounded and should be rejected by the Board.

6.

The Administrative Law Judge's determination that DEMCO's Unit Clarification petition is untimely is erroneous, unfounded and should be rejected by the Board.

7.

The Administrative Law Judge should have determined that the positions that were removed from the bargaining unit, systems operators and chief systems operator, were supervisory positions not subject to the Act.

# WHERFORE, DEMCO prays that:

- 1. Its exceptions be maintained.
- 2. The determination that DEMCO unlawfully modified the unit's scope be overruled and the Board find that DEMCO lawfully removed supervisory positions from the bargaining unit.
- 3. The determination that DEMCO violated its duty to bargain be overruled.
- 4. The Board find that the Union waived its right to bargain by contract, inaction, and/or past practice.
- 5. The determination that DEMCO's actions were fait accompli be overruled.

- 6. The UC Petition be found timely.
- 7. A determination be made that the bargaining unit positions of systems operators and chief system operator are supervisory positions under the Act.

Respectfully submitted,

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#### - CERTIFICATE -

I certify that a copy of the foregoing Exceptions to Administrative Law Judge's Decision will be mailed, postage prepaid, to

Ms. Nora Leyland SHERMAN, DUNN, COHEN, LEIFER & SHERMAN, DUNN, COHEN, LEIFER & YELLIG 900 Seventh Street, N.W., Suite 1000 Washington, DC 20001

Honorable Robert Ringler Administrative Law Judge National Labor Relations Board Atlanta Division 401 West Peachtree Street, NW **Suite 1708** Atlanta, GA 30308-3510

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Baton Rouge, Louisiana, this /2 th day of March, 2012.